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APPLICATION NO. FILING DATE FIRST NAMED INVENTOR ATTORNEY DOCKET NO. CONFIRMATION NO. 08/909,130 08/11/1997 JAMES E. COX 33019/138/10 1242 28075 07/29/2003

CROMPTON, SEAGER & TUFTE, LLC 1221 NICOLLET AVENUE SUITE 800 MINNEAPOLIS, MN 55403-2420

EXAMINER DESANTO, MATTHEW F ART UNIT PAPER NUMBER 20 3763

DATE MAILED: 07/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No.	•	•			€ _		
Examiner			Application No.	Applicant(s)			
Matthew F DeSanto S763		•	08/909,130	COX ET AL.			
Previol for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Edemons of the mary by a revision used the provisions of 3 CPR 1.136(a). In convert, however, may a ruply be limitly filled in the period for reply specified above. The maximum of 3 CPR 1.136(a). In convert, however, may a ruply be limitly filled in the period for reply specified above. The maximum calledpoy period will apply and will expire 25 (6) MONTH's from the maining date of this communication for reply specified above. The maximum callation period will apply and will expire 25 (6) MONTH's from the maining date of this communication. Finally to reply whithin the call or entering the period in the period for reply with, by statutory period will apply and will expire 25 (6) MONTH's from the maining date of this communication. Finally to reply whithin the call or entering the replication is considered timely. This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Exparte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 4.5 and 10-12 is/are pending in the application. 4) Of the above claim(s) is/are allowed. 6) Claim(s) is/are allowed. 6) Claim(s) is/are objected to. 9) Claim(s) is/are objected to. 9) Claim(s) is/are objected to. 10) The drawing(s) filed on is/are. and accepted or bi objected to by the Examiner. Application Papers 9) The specification is objected to by the Examiner. 10) The proposed drawing correction filed on is: a) approved by the Examiner. 11 provided the provided prevent is made of a claim for foreign priority under 35 U.S.C. § 119(a) (d) or (f). 12) All by Some c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received. 14) Acknowledgment is made of a claim for domestic priority	Office Action Summary		Examiner	Art Unit			
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Art Unit: 3763

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 1. Claims 4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Saab (USPN 4,820,349).

Saab discloses a balloon catheter with a perfusion lumen extending through the balloon, and having a proximal end, proximate the proximal end of the balloon, and wherein the perfusion lumen decreases distally in cross section within the inflatable envelope portion. (See Figure 1 and entire reference)

2. Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Sahota (USPN 5,090,958).

Sahota discloses a balloon catheter with a guidewire lumen and a perfusion lumen, wherein the guidewire lumen is capable of being collapsed. (Figure 1, 3a, 10, and entire reference)

Claim Rejections - 35 USC § 103

- 3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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4. Claims 4, 5, 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sahota as applied above, and further in view of Saab.

Sahota discloses the claimed invention but fails to teach wherein the perfusion lumen of a balloon catheter includes a metallic ribbon coil support, and wherein the perfusion lumen distal end has a smaller cross section than the proximal end.

Saab teaches a balloon catheter having a metallic ribbon coil support, and wherein the perfusion lumen distal end has a smaller cross section than the proximal end.

At the time of the invention it would have been obvious for one of ordinary skill in the art to combine the teachings of Sahota with Saab because Saab discloses the use of a metallic ribbon coil support, and the perfusion lumen distal end having a smaller cross section than the proximal end for the purpose of better support/strength and maneuverability. It is well known in the catheter art to use a metallic ribbon coil for support and strengthening of a lumen as well as for radiopaque features, and the proximal end having a larger cross section as compared to the distal end of the lumen is also well known in the art to help in promoting easier flexibility and maneuvering of the catheter tip within the patient.

Response to Arguments

5. Applicant's arguments filed 1/30/03 have been fully considered but they are not persuasive.

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6. The applicant argues that Saab does not disclose a perfusion lumen. The examiner disagrees with this statement because in Saab on column 5, lines 40-50, the reference discloses injecting a radiopaque dye into the patient, thus making the lumen a perfusion lumen. The applicant gives a special mean to perfusion lumen, but since this is not in the claim, the examiner gives no patentable weight to the argument.

- 7. Next the applicant argues the main lumen is not proximally the proximal end of the balloon. The examiner disagrees and refers the applicant to figure 2.
- 8. The last argument deals with Sahota and that the guidewire lumen is not disposes in the perfusion lumen as well as the guidewire lumen is not collapsible. With regards to the guidewire lumen being disposed in the perfusion lumen, this is shown in Figures 3a, and 9. With regards to the guidewire lumen not being collapsible, the reference makes discloses that in order for the lumen not to collapse a wire must be in the lumen (see Column 5, lines 25-34), thus making the lumen collapsible. The examiner would also like to note that the guidewire is not positively recited and therefore, the examiner needs to find a lumen that is capable of collapsing, and hence the prior art of Sahota reads on the claim, since Sahota states the reason for using the wire is so the lumen does not collapse.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew F DeSanto whose telephone number is 1-703-305-3292. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 1-703-308-3552. The fax phone numbers for the organization where this application or proceeding is assigned are 1-703-872-9302 for regular communications and 1-703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 1-703-308-0858.

Matthew DeSanto Art Unit 3763

Marketh

July 24, 2003

MICHAEL J. HAYES PRIMARY EXAMINER